



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 28 2004

REPLY TO THE ATTENTION OF:

B-19J

Victoria J. Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW, Suite 500
Washington, DC 20423-0001

Re: Docket No. AB-303, Sub. No. 26X, *Wisconsin Central Ltd. - Abandonment Exemption*

Dear Ms. Rutson:

In accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency (U.S. EPA) has reviewed an Environmental/Historic Report (Report) from counsel for Wisconsin Central Ltd. (WCL). The Report addresses a petition for abandonment offered by WCL for approximately 0.48 miles of rail line along Lake Superior in Ashland, Wisconsin.

Although the U.S. EPA replied with no comments in May, 2003, upon receiving the Report we have the following comments concerning WCL's abandonment petition.

- The Ashland rail line traverses the Ashland/Northern States Power Lakefront Superfund site. Removal of rails and ties should not affect the areas of contamination; however, if ballast or culverts will be removed, site contamination may become an issue. Therefore, any excavation in the contaminated area should be coordinated with the appropriate on-site agency representative.
- Shoreline stabilization should be considered near the west end of the abandonment section. The bank is steep in this area, and the rail line is immediately adjacent to Lake Superior. This activity should be part of the abandonment procedure regardless of whether the ROW will be utilized for an alternative use.
- Retention of culverts increase the likelihood that the right-of-way (ROW) will be utilized for an alternative use. However, maintenance is an important issue. Ideally, culvert maintenance should be planned at least once per season to prevent blockage and damaging floods. Disposal of obstruction materials should take place away from the streambed, and the use of equipment in the streambed should be minimized and scheduled to coincide with periods of low or normal flow. Consideration of native flora to revegetate around culvert ends to prevent erosion should be addressed. In particular, provision of maintenance activities for culverts should be provided until the property is sold, at which time maintenance activities will be transferred to the new owner via specific real estate provisions.

- The proposed abandonment is within a coastal zone. The Report indicates that the Wisconsin Coastal Zone Management Program (Program) has not yet responded regarding the program status of Ashland trackage. We encourage consultation with the Program office to ensure the proposed abandonment will not adversely affect any land or water uses or result in any coastal impacts. We feel the Report is incomplete without the opinion of the Program office regarding this action.
- The Report indicates that there is nothing of historical note within the area of the proposed abandonment. We encourage confirmation with the Wisconsin State Historic Preservation Office (SHPO) that historical and/or archaeological artifacts will not be disturbed by the proposed abandonment and removal of track materials. Consultation should include the railroad itself which may be viewed as a historic feature of the area. The railroad could be memorialized through photographs prior to abandonment and removal. We feel the Report is incomplete without the SHPO's opinion regarding this action.
- The Wisconsin Department of Natural Resources (DNR) has indicated that endangered and threatened species may be located near the abandonment site. A complete endangered resources review should be requested from the Bureau of Endangered Resources in Madison to determine if such resources are located along the proposed route and how the abandonment might affect such species. We feel the Report is incomplete without the DNR's opinion.
- Per the July 3, 1984 Rebuttable Presumption Against Registration for three major wood preservatives under the Federal Insecticide, Fungicide, and Rodenticide Act, wood treated with creosote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Wisconsin.
- Portions of the ROW which WCL owns or intends to sell for alternative use are recommended to be revegetated with native flora following removal of rails, ties, etc. Long-term benefits of this mitigation activity go beyond stormwater and soil protection to include development of habitat for wildlife, improved aesthetics, and decreased erosion.
- Removal and ultimate disposal of ballast and rails, if not recycled, should be conducted according to applicable environmental regulations.
- Storing and fueling of construction equipment should take place in upland areas, away from water bodies, floodplains or other sensitive habitat.
- Prevention and/or control of spills (i.e., fuels, lubricants or other pollutants) from construction equipment should be conducted according to applicable environmental regulations.

We look forward to receiving the STB's final decision regarding this abandonment. Should you have any questions, please do not hesitate to contact me or Kathleen Kowal of my staff at (312) 353-5206 or via e-mail at kowal.kathleen@epa.gov.

Sincerely,



Kenneth A. Westlake, Chief
Environmental Planning and Evaluation Branch

cc: Michael J. Barron, Jr., counsel for Wisconsin Central Ltd.